

### **3.0 PROPOSED ACTION**

As discussed in Section 1.0, NOAA Fisheries' purpose in this Opinion is to reconsider the conclusion in its 2000 Biological Opinion that the recommended reasonable and prudent alternative (RPA) was sufficient to satisfy the requirements of ESA § 7(a)(2). This reconsideration is responsive to an order of remand issued on June 2, 2003 by District Court Judge James A. Redden in the case *National Wildlife Federation v. NMFS*, CR 01-640-RE (D. Oregon, filed May 5, 2001). This remand is to allow NOAA Fisheries to revise its 2000 BiOp to be consistent with the Court's Opinion of May 7, 2003. NOAA Fisheries and the Action Agencies determined that the most efficient procedure for accomplishing the objectives of this remand is to recognize that the Action Agencies adopted and have been implementing the recommended RPA since January 2001. For purposes of this Opinion, instead of preparing another biological opinion on the action originally set forth by the Action Agencies in 1999, the Action Agencies have requested that NOAA Fisheries consult on the actions of the 2000 BiOp RPA, as amended through its adaptive management framework since January 2001.

The Action Agencies' proposed action is described in their August 30, 2004 "Updated Proposed Action for the FCRPS Biological Opinion Remand," which is incorporated by reference for the purpose of this Draft Biological Opinion.

#### **3.1 TERM OF THIS BIOLOGICAL OPINION**

The term of this biological opinion covers the activities set forth in the Action Agencies' August 30, 2004 "Updated Proposed Action for the FCRPS Biological Opinion Remand." As such, this Opinion covers all of the Action Agencies' proposed discretionary operations of the FCRPS, associated projects, and coincident mitigation actions through 2014. The term is extended beyond 2010 in order to include one activity that is expected to be phased in through 2014 (the testing and planned construction of improved bypass systems such as removable spillway weirs at Lower Monumental, Little Goose, McNary, and John Day dams).